

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOE FRANCIS, et al.,

Plaintiff,

v.

WASHINGTON STATE FERRIES, et al.,

Defendant.

CASE NO. C23-1410-KKE

ORDER OF DISMISSAL

THIS MATTER came before the Court on Plaintiffs' motion for voluntary dismissal under Federal Rule of Civil Procedure 41(a)(2). Dkt. No. 10.

Plaintiffs filed a complaint against Defendants on September 9, 2023. Dkt. No. 1. Defendants filed an answer to the Complaint on October 4, 2023. Dkt. No. 8. Defendants have not filed a counterclaim and have not filed any opposition to Plaintiffs' motion for voluntary dismissal.

Federal Rule of Civil Procedure 41(a)(2) provides in relevant part "[e]xcept as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, upon terms that the court considers proper." Dismissal is without prejudice unless the order states otherwise. *Id.* Whether to grant a voluntary dismissal under Rule 41(a)(2) lies in the sound discretion of the

1 district court. *See Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001). “A district court should  
2 grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will  
3 suffer some plain legal prejudice as a result.” *Id.* (citing *Waller v. Fin. Corp. of Am.*, 828 F.2d  
4 579, 583 (9th Cir. 1987)).

5 The Court, having reviewed the motion and the balance of the docket, GRANTS Plaintiffs’  
6 motion (Dkt. No. 10) and DISMISSES this case without prejudice. Each party shall bear its own  
7 attorney’s fees and costs, and the clerk is directed to close this case.

8 Dated this 6<sup>th</sup> day of November, 2023.

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11 Kymberly K. Evanson  
12 United States District Judge  
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